

## National Mediation Board

## § 1206.4

### PART 1206—HANDLING REPRESENTATION DISPUTES UNDER THE RAILWAY LABOR ACT

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AUTHORITY: 44 Stat. 577, as amended; 45 U.S.C. 151-163.

SOURCE: 12 FR 3083, May 10, 1947, unless otherwise noted. Redesignated at 13 FR 8740, Dec. 30, 1948.

#### § 1206.1 Run-off elections.

(a) In an election among any craft or class where three or more options (including the option for no representation) receive valid votes, if no option receives a majority of the legal votes cast, or in the event of a tie vote, the Board shall authorize a run-off election.

(b) In the event a run-off election is authorized by the Board, the names of the two options which received the highest number of votes cast in the first election shall be placed on the run-off ballot, and no blank line on which voters may write in the name of any organization or individual will be provided on the run-off ballot.

(c) Employees who were eligible to vote at the conclusion of the first election shall be eligible to vote in the run-off election except:

(1) Those employees whose employment relationship has terminated; and

(2) Those employees who are no longer employed in the craft or class.

[77 FR 75549, Dec. 21, 2012]

#### § 1206.2 Percentage of valid authorizations required to determine existence of a representation dispute.

(a) Upon receipt of an application requesting that an organization or individual be certified as the representative of any craft or class of employees, a showing of proved authorizations (checked and verified as to date, signa-

ture, and employment status) from at least fifty (50) percent of the craft or class must be made before the National Mediation Board will authorize an election or otherwise determine the representation desires of the employees under the provisions of section 2, Ninth, of the Railway Labor Act.

(b) Any intervening individual or organization must also produce proved authorizations (checked and verified as to date, signature, and employment status) from at least fifty (50) percent of the craft or class of employees involved to warrant placing the name of the intervenor on the ballot.

[77 FR 75549, Dec. 21, 2012]

#### § 1206.3 Age of authorization cards.

Authorizations must be signed and dated in the employee's own handwriting or witnessed mark. No authorizations will be accepted by the National Mediation Board in any employee representation dispute which bear a date prior to one year before the date of the application for the investigation of such dispute.

#### § 1206.4 Time limits on applications.

Except in unusual or extraordinary circumstances, the National Mediation Board will not accept an application for investigation of a representation dispute among employees of a carrier:

(a) For a period of two (2) years from the date of a certification covering the same craft or class of employees on the same carrier, and

(b) For a period of one (1) year from the date on which:

(1) The Board dismissed a docketed application after having conducted an election among the same craft or class of employees on the same carrier and less than a majority of valid ballots cast were for representation; or

(2) The Board dismissed a docketed application covering the same craft or class of employees on the same carrier because no dispute existed as defined in § 1206.2 of these rules; or

(3) The Board dismissed a docketed application after the applicant withdrew an application covering the same craft or class of employees on the same

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carrier after the application was docketed by the Board.

[44 FR 10602, Feb. 22, 1979, as amended at 75 FR 26088, May 11, 2010]

### § 1206.5 Eligibility of dismissed employees to vote.

Dismissed employees whose requests for reinstatement account of wrongful dismissal are pending before proper authorities, which includes the National Railroad Adjustment Board or other appropriate adjustment board, are eligible to participate in elections among the craft or class of employees in which they are employed at time of dismissal. This does not include dismissed employees whose guilt has been determined, and who are seeking reinstatement on a leniency basis.

[12 FR 3083, May 10, 1947. Redesignated at 13 FR 8740, Dec. 30, 1948, and further redesignated at 77 FR 75549, Dec. 21, 2012]

### § 1206.6 Construction of this part.

The rules and regulations in this part shall be liberally construed to effectuate the purposes and provisions of the act.

[12 FR 3083, May 10, 1947. Redesignated at 13 FR 8740, Dec. 30, 1948, and further redesignated at 77 FR 75549, Dec. 21, 2012]

### § 1206.7 Amendment or rescission of rules in this part.

(a) The Board may at any time amend or rescind any rule or regulation in this part by following the public rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 553) and after providing the opportunity for a public hearing.

(b) The requirements of paragraph (a) of this section shall not apply to any rule or proposed rule to which the third sentence of section 553(b) of the Administrative Procedure Act applies.

(c) Any interested person may petition the Board, in writing, for the issuance, amendment, or repeal of a rule or regulation in this part. An original and three copies of such petition shall be filed with the Board in Washington, DC, and shall state the rule or regulation proposed to be issued, amended, or repealed, together

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with a statement of grounds in support of such petition.

[77 FR 75549, Dec. 21, 2012]

## PART 1207—ESTABLISHMENT OF SPECIAL ADJUSTMENT BOARDS

Sec.

1207.1 Establishment of special adjustment boards (PL Boards).

1207.2 Requests for Mediation Board action.

1207.3 Compensation of neutrals.

1207.4 Designation of PL Boards, filing of agreements, and disposition of records.

AUTHORITY: 44 Stat. 577, as amended; 45 U.S.C. 151–163.

SOURCE: 31 FR 14644, Nov. 17, 1966, unless otherwise noted.

### § 1207.1 Establishment of special adjustment boards (PL Boards).

Public Law 89–456 (80 Stat. 208) governs procedures to be followed by carriers and representatives of employees in the establishment and functioning of special adjustment boards, hereinafter referred to as PL Boards. Public Law 89–456 requires action by the National Mediation Board in the following circumstances:

(a) *Designation of party member of PL Board.* Public Law 89–456 provides that within thirty (30) days from the date a written request is made by an employee representative upon a carrier, or by a carrier upon an employee representative, for the establishment of a PL Board, an agreement establishing such a Board shall be made. If, however, one party fails to designate a member of the Board, the party making the request may ask the Mediation Board to designate a member on behalf of the other party. Upon receipt of such request, the Mediation Board will notify the party which failed to designate a partisan member for the establishment of a PL Board of the receipt of the request. The Mediation Board will then designate a representative on behalf of the party upon whom the request was made. This representative will be an individual associated in interest with the party he is to represent. The designee, together with the member appointed by the party requesting the establishment of the PL Board, shall constitute the Board.